



PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: Klaus ABRAHAM-FUCHS, et al.
Appl. No.: 10/589,536
Filing Date: August 16, 2006
Art Unit: 3686
Examiner: Edward B. Winston, III
Title: METHOD FOR EVALUATING THE QUALITY OF
ELECTRONICALLY STORED, PARTICULARLY MEDICAL,
KNOWLEDGE DATA
Atty. Dkt. No.: 32860-001075/US

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Mail Stop Appeal Brief

July 11, 2011

APPELLANTS' REPLY BRIEF UNDER 37 C.F.R. § 41.41

In response to the Examiner's Answer of May 12, 2011 and in accordance with the provisions of 37 C.F.R. § 41.41, Appellants submit the following Reply Brief.

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I. STATUS OF CLAIMS

Claims 1-19 and 22-30 are pending in this application, with claims 1 and 29 being in independent form. Each of claims 1-19 and 22-30 remain finally rejected and are being appealed.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- A. Appellants seek the Board's review of the rejection of claims 1-19 and 22-30 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0122719 ("Sabol").

III. ARGUMENT

In addition to the arguments articulated in the Appeal Brief of February 10, 2011, Appellants would like to clarify the following points. However, it should be understood that any portion of the Examiner's Answer that is not specifically addressed herein is not a concession as to the propriety of that portion. Rather, the absence of a specific reply to such a portion is merely because clarification was not needed in view of the arguments already articulated in the Appeal Brief of February 10, 2011.

In response to the Appellant's argument that Sabol fails to disclose or suggest "correlating quality data of the knowledge data stored in the database" where "the quality data indicates a content quality of the knowledge data stored in the database," as recited in independent claim 1, the Examiner states that knowledge data and quality data are merely titles of data being stored in the database since there is no further limitation of the two in the specification. Referring to the Applicants' specification, the Examiner asserts on page 15 of the Examiner's Answer that, when storing the knowledge data and quality data, it is not important whether they are stored together in one database or in different distributed databases, even networked over large distances. Users are persons who read (by reading data as correlated by user), stored or forward the knowledge data. Based on this disclosure in the specification, the Examiner interprets that knowledge data and quality data are merely titles of data being stored since there is no further limitation of the quality data and knowledge data in the specification. The Examiner finds "knowledge data" and "quality data" as non-functional descriptive materials that are not functionally involved in manipulative steps of the

invention nor do they alter the recited structural elements. Appellants submit that this is clearly erroneous.

Applicants respectfully submit that “knowledge data” and “quality data,” as recited in independent claim 1, cannot be construed as non-functional descriptive material since it is clearly claimed that “the quality data indicates the content quality of the knowledge data stored in the data base.” As such, “quality data” of independent claim 1 is functionally related to the “knowledge data” recited in independent claim 1. Further, with respect to the Examiner’s assertion that the “quality data” and “knowledge data” do not alter the recited structural elements as claimed, Appellants submit that as recited in dependent claim 2 “the user applies the knowledge data and quality data correlated with the results of the application stored in the database.” As such, the “knowledge data” of which the “quality data” indicates the content quality is applied by the user. As such, both, the “quality data” and the “knowledge data,” are functionally involved in the manipulative steps of the claimed invention.

Applicants respectfully submit that Sabol fails to disclose or fully suggest any “quality data” and “knowledge data,” as recited in independent claim 1, let alone any correlation between the “quality data” and the “knowledge data.” In rejecting claim 1 the Examiner is also relying upon Figure 3 and paragraph 61 of Sabol. Figure 3 illustrates certain components within the data resource segment of the resources discussed and illustrated with respect to Figure 1. Particularly, Figure 3 of Sabol illustrates the data resources 38 that may include a range of information types. Based on the Examiner’s rejection on page 4 and 5 of the Examiner’s Answer, it appears that the Examiner is reading the recitation of “knowledge data” of independent claim 1 upon the data resources 38. However, none of the data resources 38 illustrated in Figure 3 of Sabol are correlated with

any "quality data" as required by independent claim 1. Also, paragraph 79 of Sabol discloses how the computing resources are made available to clinicians as part of the integrated knowledge database 12. Namely, clinical and non-clinical data are stored and accessed from the integrated knowledge database 12 by physicians to fulfill their tasks, such as diagnosis and treatment of patients. This data in integrated knowledge database 12 includes prescribing database sources such as blood tests or urine tests, electrical acquisition data such as ECG and medical imaging techniques. Applicants respectfully submit that the integrated database 12 may arguably be construed, at most, as the "knowledge database" of independent claim 1. Sabol fails to disclose or fully suggest any "quality data" correlated with this integrated knowledge database 12.

In response to the Applicants' argument that Sabol fails to disclose or suggest any "quality data" and "quality criteria" as recited in dependent claim 7, the Examiner states that "quality criteria" is not explicitly taught in the Applicants' specification. Therefore, the Examiner interprets the "quality criteria" of dependent claim 7 as the criteria taught by Sabol.

Applicants respectfully submit that this assertion of the Examiner is clearly erroneous and respectfully direct the Examiner's attention to at least paragraphs 80-88 of the Applicants' specification that provide an example embodiment of the determination of a "quality criteria." Further, in rejecting dependent claim 7, the Examiner is again relying on Figure 1 and paragraphs 61 and 79 of Sabol. As mentioned above, Applicants respectfully submit that Sabol fails to disclose or fully suggest any quality data, let alone determining any quality data from any quality criteria, as recited in dependent claim 7.

For reasons somewhat similar, Applicants respectfully submit that Sabol fails to anticipate "quality data are determined from the resulting database

according to the quality criteria with a time delay,” as recited in dependent claim 8. In the Examiner's Answer on page 17 the Examiner, relying on the Applicants' specification, asserts that the specification provides no information on the time delay as recited in claim 8, and therefore the Examiner interprets this as gathering data through a period of time. The Examiner again directs the applicant to Figure 7 of Sabol, asserting that Figure 7 illustrates various data collected, processed and analyzed at the various points in time.

Applicants respectfully submit claim 8 is directed to “[determining] quality data according to the quality criteria with a time delay.” Applicants respectfully submit that Sabol fails to teach or fairly suggest any “quality data” as recited in claim 8, let alone determining any quality data according to a quality criteria with a time delay.

In sum, Sabol fails to anticipate and/or render obvious independent claim 1 and the somewhat similar features recited in independent claim 29. Dependent claims 2-19, 22-28, and 30 are also patentable at least by virtue of their dependency on one of the independent claims 1 and 29, and also on their own merits. Applicants respectfully further maintain the request for reversal of the rejection under 35 U.S.C. §102 over Sabol.

IV. CONCLUSION

For at least the reasons above, a *prima facie* case of anticipation cannot be established with regard to claims 1 and 29. Consequently, a *prima facie* case of anticipation cannot be established with regard to claims 2-19, 22-28, and 30, at least by virtue of their dependency on claims 1 and 29. Accordingly, Appellants respectfully request the Board to reverse the Examiner's rejection.

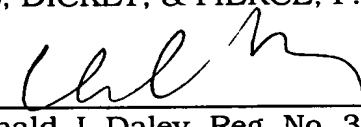
If the USPTO believes that personal communication will further the prosecution of this application, the Office is invited to contact Donald J. Daley, at the telephone number below.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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